



STATE OF CALIFORNIA

## STATE BOARD OF EQUALIZATION

450 N Street, MIC: 64, Sacramento, California  
(P. O. Box 942879, Sacramento, CA 94279-0001)

Telephone: (916) 445-4982  
FAX: (916) 323-8765

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June 22, 1994

Honorable Josephine Johnson  
Modoc County Assessor  
204 South Court Street, Room 106  
Alturas, California 96101

Attention: Ms. Mary Lou Server  
Appraiser

Dear Ms. Server:

This is in response to your letter of May 24, 1994, regarding properties controlled by the Resolution Trust Corporation. According to your letter and supporting documents, a subdivision of approximately 15,000 lots (California Pines) is located in your county. Of these 15,000 lots, 206 have been sold (31 duress sales, 95 auction sales, and 80 fair market sales).

The owner of this subdivision, Leisure Industries (Leisure), is in a receivership with the Resolution Trust Corporation (RTC). Leisure filed an appeal for the 1993-94 fiscal year. Leisure appraised 1,200 lots and some acreage as a unit because the RTC placed a no-marketing restriction on selling the individual lots. Your office valued the lots individually based on market sales.

The only restriction of which you are aware is a requirement that the RTC must publish a notice that the subdivision is or may be subject to the Coastal Barrier Improvement Act of 1990. Because of this requirement, the property cannot be sold until 90 days after the first publication of the notice. During this period, any governmental agency or qualified organization may submit in writing a "notice of serious intent" to purchase the property. You asked two questions: (1) Would the decision of the RTC to not sell the lots individually be recognized as a government restriction under Section 402.1 of the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation

Code unless otherwise indicated), and (2) What is the unit to be valued in this situation?

Section 401 calls for the assessor, in general, to assess all property subject to local property taxation at its full cash value. One of the few restrictions that the assessor must recognize in the valuation of property is land use restrictions described in Section 402.1 (i.e., governmental restrictions) and reads as follows:

"(a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. (Emphasis added.)

It then goes on to list a number of restrictions that must be recognized by the assessor, all of which are governmental restrictions. In a recent appellate court decision (Carlson v. Assessment Appeals Board No. 1, 167 Cal.App.3d 1004), the court determined that an assessor is only required to consider governmentally imposed land restrictions. The legislative purpose of this section is to allow an assessor to consider restrictions necessary to implement the public policy of encouraging and maintaining effective land use planning.

On your behalf we contacted the RTC who referred us to Mr. Phil Grace of the Burton Clark Company, the asset manager for Leisure. According to Mr. Grace, RTC has placed a restriction on selling the lots individually. RTC restricted the sale of the remaining lots to one bulk sale so that (1) it could be sold quickly and (2) the individual lots would not have to be discounted for quick sales thus devaluing the subdivision.

Generally, where enforceable restrictions are imposed upon the property by government action either through zoning, recorded contracts, or other direct government action, then the provisions of Section 402.1 are applicable to require that the assessor consider the government imposed restricted use of the property. However, the restriction upon California Pines by the RTC is not a restriction on the use of the property, it is a restriction upon the ownership of the property. RTC is restricting to whom the property can be sold, not for what the property can be used. Thus, our opinion is that RTC's restriction on selling the remaining lots individually should not be considered a governmental restriction under Section 402.1 and should not be reflected in the value of the lots. Since the land here in question is not restricted in its use by government action, then the assessor is mandated to assess it at full cash value as that term is defined in Sections 110 and 110.1.

This leads to your second question about the appraisal unit. Assessor's Handbook Section 501, *General Appraisal Manual* (revised September 1982, page 11), discusses the unit to be valued and reads in part:

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"[T]he proper unit to be valued is the unit that people in the market typically buy and sell....Unfortunately, the unit to be appraised may not be easily discernible when making appraisals for tax purposes. The unit must be determined by the property tax appraiser, even when the market may not clearly define this unit....When the unit to be appraised is not clearly defined, the appraiser must use judgment in determining the proper unit. Decisions should be based on consideration of ownership, use, and location. The appraiser's decision should reflect, as faithfully as possible, **the unit most likely to be sold if the property were exposed to the open market.** In a subdivision, the most probable unit is **generally** the single lot, even though some lots may be sold in combination."  
(Emphasis added.)

Board staff follows Policy and Procedures Number 25, Identifying the Appraisal Unit, when dealing with subdivisions, planned unit developments, and other multi-parcel ownerships. A copy of the policy is enclosed.

If you have any further questions, please contact our Real Property Technical Services Section at (916) 445-4982.

Sincerely,

Verne Walton, Chief  
Assessment Standards Division

VW:sk  
Enclosure

bc: Mr. Richard Ochsner

(Prepared by: Glenna Schultz)